

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

: 16367376757

Fax sent by

Toni A. Armstrong David L. DeBoer

Serial No.: 10/692,762

Filed: October 24, 2003

For: METHOD FOR THE REGENERATION

OF COTTON

Group Art Unit: 1661

Examiner: Hwu, June

Atty. Dkt. No.: MONS:127USC1

DECLARATION UNDER 37 C.F.R. § 1.131

We, Toni A. Armstrong and David L. DeBoer, hereby declare as follows:

- 1. We are co-inventors of the subject matter claimed in the above-referenced patent application.
- 2. We understand that the Patent and Trademark Examiner reviewing this case has asserted that claim 8 of the above-referenced application is anticipated by Kumar et al. (Plant Cell Rep. 18:59-63), published November 1998.
- 3. Specifically, we understand that the Examiner asserts that Kumar et al. describe use of activated charcoal to promote the *in vitro* regeneration of plants by embryogenesis from cotton callus cells.
- 4. We are submitting this Declaration to provide evidence demonstrating that the subject matter of claim 8, and specifically the use of activated charcoal in a method for inducing embryos from cotton callus tissue, was conceived of and reduced to practice prior to the November 1998. publication date of Kumar et al.

- All of the work described in this Declaration was performed in the United States.
- 6. As evidence of the foregoing, we attach as **Exhibit** A laboratory notebook pages showing conception and reduction to practice of the use of activated charcoal for inducing embryos from cotton callus cells prior to November 1998. The dates have been reducted from the copies in Exhibit 1, but all of the studies described in these notebook pages were completed prior to November 1998, and all of these laboratory notebook pages were dated prior to this date.
- 7. For example, the first two pages of Exhibit A, notebook pages numbered 5948468 and 5948471, describe use of plant cell growth media comprising 0.5% charcoal to increase the frequency of embryogenic callus induction of transformed cotton callus cells. The third page of Exhibit A, notebook page 5711774, describes an additional experiment comparing use of several media with or without activated charcoal, resulting in embryos transferred to further tissue culture media. These studies therefore show conception and reduction to practice of the method of claim 8 of the present application prior to November 1998.
- 8. I hereby declare that all statements made of my own knowledge are true and all statements made on information are believed to be true and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under § 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any patent issued thereon.

Date:	4/2-107	Jani a. am	stron
		Toni A. Armstrong	0
Date:		•	
		David L. DeBoer	· · · · · · · · · · · · · · · · · · ·

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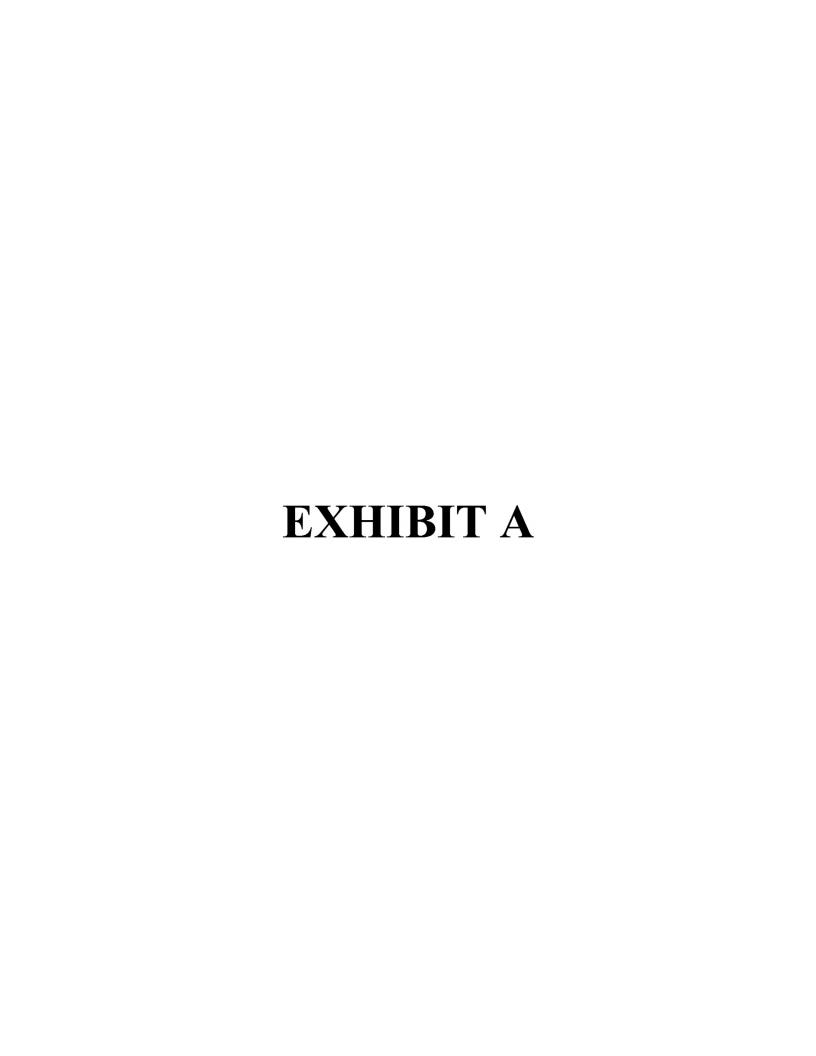
DECLARATION UNDER 37 C.F.R. § 1.131

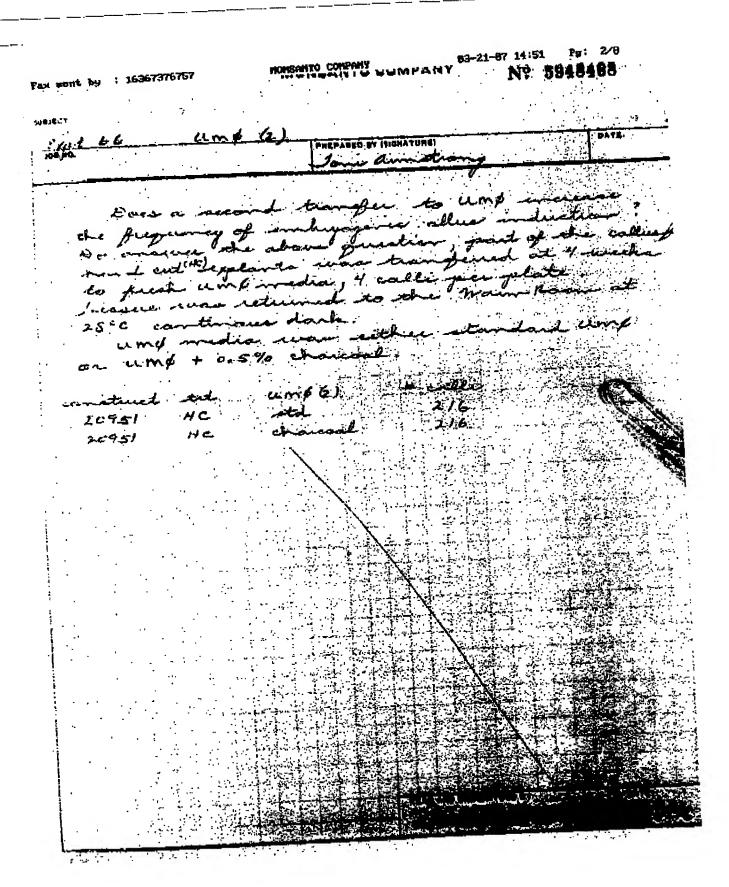
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Date:	Toni A. Armstrong
Date: 4/3/07	David L. DeBoer





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